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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,118	12/30/2003	Michael D. O'Shea	KCX-732 (19571)	1747
22827 DORITY & MA	7590 12/11/200 ANNING, P.A.	EXAMINER		
POST OFFICE	BOX 1449	HENRY, RODNEY M		
GREENVILLE	, SC 29602-1449		ART UNIT	PAPER NUMBER
			3622	
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			12/11/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief

Application No.	Applicant(s)		
10/748,118	O'SHEA ET AL.		
Examiner	Art Unit		
RODNEY M. HENRY	3622		

-The MAILING DATE of this communication appears on the cover sheet with the correspondence address - THE REPLY FILED 21 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. 1. ■ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application in condition for allowance; (2) a Notice of Appeal (vit) an amendment, affidavt, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (vit) appeal refer (i) in compliance with 37 CFR 1.131, or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.131, and the filed within one of the following time of the period for reply expires 3, months from the mailing date of the final rejection. The prior for reply expires 3, months from the mailing date of the final rejection. Examiner Note: If fox it is checked, check other box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REFLY WAS FILED WITHIN TWO MONTHS OF THE FIRST REPLY WAS FILED WITHIN TW		RODNEY M. HENRY	3622	
1. ☑ The reply was filled after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following repless: (1) an amendment, affidate, or other evidence, with places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 4.1.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following reperiods: a) ☑ The period for reply exprise 3_months from the mailing date of the final rejection. b) ☐ The period for reply exprise 3_months from the mailing date of the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY-CHECK BOX (b) WHIS THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRMA REJECTION. See MFEP 705.07(1). Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY-CHECK BOX (b) WHIS THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FIRMA REJECTION. See MFEP 705.07(1). Examiners of sime may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee morter 37 CFR 1.176(a) is calculated from: (1) the exprision date of the shortened studiory period for reply originally set in the final Office action. (2) as many reduce any semido patient term adjustment. See 37 CFR 1.74(b). NOTICE OF APPEAL. 2. ☐ The Notice of Appeal was filed on A brief in compliance with 37 CFR 4.1.37(e), to avoid dismissal of the appeal. Since a Notice of Appeal was been filed; any reply must be filed within the time period set forth in 37 CFR 4.1.37(a). AMEDIAMENTS 1. ☐ The Protice of Appeal was been filed, any reply must be filed within the time period and forth in 37 CFR 4.1.37(a). AMEDIAMENTS 2. ☐ The Protice of Appeal was been filed, any reply must be filed within the time period and forth in 37 CFR 4.1.37(a). The proposed amendment(s) filed after a final rejection, but prior t	The MAILING DATE of this communication appea	ars on the cover sheet with the c	correspondence addr	ess
application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 GFR 1.114. The reply must be filed within one of the following time periods: a) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection. Description of the proposed property of the period of the reply expires and (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection. Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MFEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.138(a). The date on which the petition under 37 CFR 1.138(a) and the appropriate extension fee have been flied is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been flied is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been flied is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been flied in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of he final rejection, even if unally filed. NOTICE OF APPEAL 2. The Notice of Appeal was filed on Appeal was been adjustment. See 3° CFR 1.748(a). The proposed amendment (b) filed after a final rejection, but prior to the date of filing a brief, will not be final rejection, even if unally filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal	THE REPLY FILED 21 November 2008 FAILS TO PLACE THIS	APPLICATION IN CONDITION F	OR ALLOWANCE.	
b) The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of final rejection. Examiner Note: If you have the state of the state	application, applicant must timely file one of the following rapplication in condition for allowance; (2) a Notice of Appe for Continued Examination (RCE) in compliance with 37 C	eplies: (1) an amendment, affidavi al (with appeal fee) in compliance	t, or other evidence, w with 37 CFR 41.31; or	hich places the (3) a Request
no event, however, will the statulory pend for reply expire later than SIX MONTHs form the mailing date of the final rejection. Exeminer Note: If thos, its checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REFLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f). Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee have been filed is the date for purpose of the period form (1) the experiation date of the shortened statutory period for reply originally set in fail office action, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, or (2) as set forth in (b) above, if the previous provides and the period of the final rejection, or (2) as set forth in (b) above, if the previous provides and the period of the period of the period of the period of the final rejection, or (2) as set forth in (b) above, if the previous provides and the period of th	a) The period for reply expires <u>3</u> months from the mailing date of	of the final rejection.		
have been filed is the date for purposes of determining the period of extension and the corresponding amont of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL 2. The Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal was filed on A brief in compliance with 37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3. The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because (a) They raise new issues that would require further consideration and/or search (see NOTE below); (b) They raise the issue of new matter (see NOTE below); (c) They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or (d) They present additional claims without canceling a corresponding number of finally rejected claims. NOTE: (See 37 CFR 1.116 and 41.33(a)). 4. The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324). Applicant's reply has overcome the following rejection(s):	no event, however, will the statutory period for reply expire la Examiner Note: If box 1 is checked, check either box (a) or (b)	ter than SIX MONTHS from the mailing o). ONLY CHECK BOX (b) WHEN THE	g date of the final rejection	n.
filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(a)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a). AMENDMENTS 3.	have been filed is the date for purposes of determining the period of externing the period of externing the set of the set of the set forth in (b) above, if checked. Any reply received by the Office later that may reduce any earned patent term adjustment. See 37 CFR 1.704(b).	ension and the corresponding amount on tending amount of the corresponding amount of t	of the fee. The approprianally set in the final Office	te extension fee e action; or (2) as
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(c)	(a) They raise new issues that would require further con	sideration and/or search (see NOT		ause
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REQUEST FOR RECONSIDERATION/OTHER 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet. 12. Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). 13. Other: 14. Arthur Duran/	entered because the affidavit or other evidence failed to ov showing a good and sufficient reasons why it is necessary	rercome <u>all</u> rejections under appea and was not earlier presented. Se	al and/or appellant fails see 37 CFR 41.33(d)(1)	to provide a
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Frimary Examiner, Art Onit 3622	rmh	/Arthur Duran/ Primary Examiner, Art U	nit 3622	

Continuation of 11. does NOT place the application in condition for allowance because: The Applicant's arguments against combining prior art references Moskowitz '002 and Holda-Fleck '693 are not conclusive. Both prior art references deal with rebates, hence one skilled in the art would have though to make use of these sources of information. The prior art used in the Final Action dated July 24, 2008 addressed the Applicant's claims.